IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE J.M.JAMES

MONDAY, THE 1ST JANUARY 2007 / 11TH PAUSHA 1928

WP(C).No. 11888 of 2004(M)

PETITIONER:

B.SASIDHARAN PILLAI,
ARAATHU VEETTIL, CHEMBOOR, MUDAKKAL,
TRIVANDRUM DISTRICT.

BY ADV. SRI.THOMAS ABRAHAM
SRI.K.B.ARUNKUMAR

RESPONDENTS:

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1. JOINT REGISTRAR OF CO-OPERATIVE
(GENERAL), VANCHIYOOR, TRIVANDRUM.

2. CHAMBOOR SERVICE CO-OPERATIVE BANK LTD.
T 202, MUDAKKAL O.,
(VIA) AVANAVANCHERRY, TRIVANDRUM DISTRICT,
REPRESENTED BY ITS SECRETARY.

3. RAJAN BABU, PRESIDENT AND MEMBER
BOARD OF DIRECTORS, CHEMBOOR SERVICE CO-OPERATIVE
BANK LTD., T. 202, RESIDING AT NANDAVAM,
CHEMBOOR, MUDAKKAL P.O., (VIA) AVANAVANCHERRY.

BY ADV. SRI.T.R.RAMACHANDRAN NAIR FOR R3
SRI.B.S.SWATHI KUMAR, SPL.GP.(CO.OP.)
GOVERNMENT PLEADER P.K.RAVIKRISHNAN FOR R1

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 01/01/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

W.P.(C).11888/2004

APPENDIX

PETITIONER'S EXHIBITS

EXT.P1- THE TRUE COPY OF THE PROCEEDINGS NO.C.R.P.(2)5189/97 DATED 25.12.1999 ISSUED BY THE 1ST RESPONDENT

EXT.P2- THE TRUE COPY OF THE PETITION SUBMITTED BY THE PETITIONER AND OTHERS ON 27.01.04 BEFORE THE 1ST RESPONDENT.

EXT.P3- A TRUE COPY OF THE LIST OF 399 INELIGIBLE PERSONS APPENDED TO EXT.P2 PETITION AS ANNEXURE – 1 DATED 3.2.04

EXT.P4- THE TRUE COPY OF THE NOTICE DATED 9.3.04 ISSUED BY THE 1ST RESPONDENT TO THE 2ND RESPONDENT SOCIETY.

(TRUE COPY)

P.A TO JUDGE

J.M.JAMES, J.

W.P.(C). 11888/2004

Dated this the 1st day of January, 2007

JUDGMENT

The writ petitioner is one of the members of the second respondent, bank. The writ petition was filed on 2.4.2004 praying to direct the first respondent to conduct an enquiry under Section 65 of the Kerala Co-operative Societies Act, 1969, in short 'the Act', and pass appropriate orders and also to remove the ineligible persons, including those illegally enrolled as members of the second respondent, bank.

2. During the hearing, it is brought out that Ext.P2 complaint was filed on 27.1.2004 and, thereafter, an election to the Board of Directors was held on 7.3.2004. They took charge of the administration of the second respondent. However, basing on election dispute that had been raised, the election had been set aside and Board of Directors superseded. The counsel for the writ petitioner, however, submits that the administration of the Society, including the enrollment of the ineligible persons of the Society still exist and, therefore, an enquiry is necessary.

3. In the counter filed by the first respondent, the Joint Registrar, it is conceded that certain number of persons, admitted as members of the Society are from outside the area of operation of the Society and they had also been granted loan. It is also enquired and found that certain temporary appointments were made without the approval of the department. Therefore, the first respondent gave instructions to the bank to rectify these irregularities within a time frame. The Assistant Registrar (General) Chirayinkeezhu, was directed to watch the rectification process, made by the bank.

4. It is also stated by the first respondent that there is no inaction on his part, as a rectification notice (Ext.P4) was issued to the second respondent, bank. The first respondent is waiting for further report of the Assistant Registrar (General) Chirayinkeezhu. Further actions could not be initiated because of the pendency of O.P.27475/1999, before this Court.

5. During the hearing, it had been conceded by either side that O.P.27475/1999 had been dismissed as infructuous. In such circumstances, there is no legal difficulties for the first respondent to conduct an enquiry

or to get the rectification, as per the procedure, as had already been ordered, basing on the report of the Assistant Registrar (General) Chirayinkeezhu, provided the first respondent is satisfied, as per the provisions of the Act. Therefore, I am of the opinion that no further orders are necessary in this writ petition, as the first respondent is seized with the matter. However, the first respondent shall hear the writ petitioner also, before taking a final decision on the grievance that had been raised by the writ petitioner, basing on the report of the Assistant Registrar (General) of Co-operative Societies. There shall be no delay in implementing Ext.P4 rectification notice, issued by the Joint Registrar. The actions, as stated in the counter filed by the first respondent, shall be completed at the earliest, in any case within three months from the date of production of a copy of this judgment.

The writ Petition is disposed of as above.

J.M.JAMES
JUDGE

mrcs